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758 FENWICK & WEST LLP 7590 SILICON VALLEY CENTER 06/09/2009 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041				
EXAMINER STERRETT, JONATHAN G				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/782,677

**Applicant(s)**

PACE ET AL.

**Examiner**

JONATHAN G. STERRETT

**Art Unit**

3623

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 23 March 2009 has been entered.

### **Summary**

2. This **Non-Final Office Action** is responsive to applicant's amendment filed 23 March 2009. Currently **Claims 1-75** are pending.

### ***Response to Arguments***

3. The applicant's arguments have been fully considered but they are not persuasive.

The applicant argues that the amended limitations of (1) the service locations are physically located in the business establishment (2) the customer is also physically located in the at the service locations in the business establishment and (3) the message sent to the primary service attendant indicates a physical location in the business establishment, which corresponds to the service location where the event is to be serviced.

The examiner respectfully disagrees.

The examiner relies on the Board's decision of 30 January 2009 regarding (1) and (2) which states:

As to customers being in the service location, only the claim preamble recites this, and whether customers are at a service location does not affect the structure in the apparatus claims or the steps in the method claims. Thus, customers within a service location are mere field of use limitations afforded no patentable weight. *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305 (Fed. Cir. 1999).

Thus the recitation of the service locations being physically located in a business establishment and the customer being physically located at service locations in the business establishment do not patentably distinguish over the teachings of McDonough.

As to (3), the Board has stated, again in the 30 January 2009 decision:

We agree with the Examiner. There is no contention regarding whether McDonough describes the required decisioning system to schedule staff for servicing events, communication system for transmitting messages to the staff, and message receivers to receive the messages and McDonough clearly describes these limitations (FF 04 - 09). Independent claim 1 requires transmitting a message to a service attendant, the message indicating the service location at which the event is to be serviced, where the indicated service location is in a business establishment. The remaining independent claims 23, 45, 46, and 75 have similar limitations.

The structure of the method claims and system would be the same regardless whether the message indicates a physical service location or only indicates a service location. McDonough provides a message indicating a service location, McDonough

does not provide a message indicating a physical service location. However, the recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP '2106

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1, 2, 7-10, 12-14, 17-21, 23, 24, 29-32, 34-36, 39-43, 45-47, 52-61, 66, 68-71 and 75** are rejected under 35 U.S.C. 103(a) as being unpatentable over **McDonough** US Patent 6,070,142 (hereinafter **McDonough**).

Regarding **Claim 1**, McDonough discloses:

**a plurality of service locations physically located in a business establishment,**

(Figure 3 #350, #354, #358, #356, #352, are all customer service locations which can communicate one or more events pertaining to a service event – the service locations are provided in the call center, which is a business establishment

**each service location including a communication device adapted to communicate one or more events pertaining to a service event for a customer who is physically located at the service location in the business establishment;**

as per above, the service locations are both in the call center and where the customer is physically located.

**a system for providing service to customers at service locations, each service location having a communication device adapted to communicate one or more events pertaining to a service event for a customer at the service location** (Figure 3 #350, #354, #358, #356, #352, are all customer service locations which can communicate one or more events pertaining to a service event),

**the system comprising:**

**a decisioning system communicatively coupled to the communication devices** (Figure 3 #360 routing engine) **to receive the events** (column 9 line 37-38, service provider uses decision logic to determine customer needs),

**the decisioning system configured to schedule a primary service attendant from a plurality of service attendants for servicing each event** (column 12 line 4-5, system assigns resource based on requirements and characteristics; column 8 line 25-26, VRU assigns call to employee. McDonough discloses a call center where there are a plurality of service attendants –see column 8 line 48-50, employee workstation &

column 8 line 7 resource profiles identified of employees to handle calls, column 9 line 1, employees in call center). As per Webster's II as discussed above, the various servers in column 8 line 49-53 also comprise a plurality of service attendants.

**according to at least a value of the customer at the service location that generated the event**

(column 12 line 36-38, system allocates resource levels to deliver desired customer experience);

**a communication system communicatively coupled to the decisioning system to transmit a message to the primary service attendant selected for an event, the message indicating a physical location in the business establishment corresponding to the service location at which the event is to be serviced**

(column 8 line 53-56 context manager routes contacts between many different resources, these resources constitute different attendants), the message indicating the service location at which the event is to be serviced (column 8 line 49-52, service locations, include a workstation);

**a plurality of message receivers for use by the service attendants, including the primary service attendant, each a message receiver configured to receive messages from the communication system and display the received messages to a service attendant** (Figure 3 #340, phone and #342, workstation both receive messages from communication system. Column 8 line 49-50, there are a number of employee workstations (i.e message receivers) that are used by service

attendants, including the primary attendant tasked with receiving a call (i.e. message) from the context manager –see column 8 line 38-40 and Figure 3).

. I.e., the recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* ' 2106.

McDonough teaches that the customer may be in a separate physical location than where the service is provided (i.e. in a call center). However, as per the Board's ruling of 2-9-2009, a separate physical location between a service provider and a customer does not patentably distinguish over the teachings of McDonough because of the telecommunication technology teachings which link different locations. It would have therefore been obvious to one of ordinary skill in the art to modify the teachings of McDonough to provide a service provider and a customer who are both located in a business establishment, because it would have provided a predictable result in linking a service provider and a customer who desired service.



Regarding **Claim 2**, McDonough discloses wherein the customer value is based on potential revenue generated by the customer (column 12 line 33-34, customers valued based on profitability)

Regarding **Claim 7**, McDonough discloses wherein the decisioning system uses a plurality of rules for scheduling the events for service (column 12 line 30-32, rule-based routing allows customer preferences to be met).

Regarding **Claim 8**, McDonough discloses wherein the rules include: at least one rule for scheduling events according to an age of the event (column 4 line 9, context manager provides management over life of event).

Regarding **Claim 9**, McDonough discloses wherein the rules include: at least one rule for scheduling events according to a type of event (column 4 line 55-56, rules based on customer activity).

Regarding **Claim 10**, McDonough discloses wherein the rules include: at least one rule for scheduling events according to a location of the service location (column 8 line 34-36, service locations originating events).

Regarding **Claim 12**, McDonough discloses wherein the rules include: at least one rule for selecting a service attendant for servicing an event based on a

location of the service location (column 8 line 34-36, service locations originating events) which generated the event and an assigned location of the service attendant (column 11 line 64-67, rules determine what resource will handle event).

Regarding **Claim 13**, McDonough discloses wherein the rules include: at least one rule for messaging a supervisor of the primary service attendant if the primary service attendant has not completed servicing the event in a certain amount of time (column 9 line 1-2, availability of employees and overflow management).

Regarding **Claim 14**, McDonough discloses wherein the rules include: at least one rule for scheduling events according to an age of the event (column 4 line 9, context manager provides management over life of event); at least one rule for scheduling events according to a type of event (column 4 line 55-56, rules based on customer activity); at least one rule for scheduling events according to a location of the service location (column 8 line 34-36, service locations originating events); and at least one rule for selecting a service attendant for servicing an event based on a location of the service location (column 8 line 34-36, service locations originating events) which generated the event and an assigned location of the service attendant (column 11 line 64-67, rules determine what resource will handle event).

Regarding **Claim 17**, McDonough discloses

**wherein the communication system is a two-way messaging system whereby the message receivers can transmit and receive messages.**

Figure 3 #370 CTI, #340 employee telephone, #342 employee workstation; these devices are two way messaging systems that can transmit and receive messages, #340 and #342 are two-way message receivers that can transmit and receive messages.

Regarding **Claim 18**, McDonough discloses wherein: the primary service attendant can accept or decline to service an event using the two-way message receiver (Figure 3 #342, employee workstation where employee can decline routing of service request from #370 CTI) and Wherein: in response to the primary service attendant declining to service an event (column 8 line 9, server provides status of resource availability, including service attendant declining service), the decisioning system selects a secondary service attendant for servicing the event (column 12 line 7-8 overflow can be assigned to resource with the required skills), and the messaging system transmits a message to the secondary service attendant to service the event (column 8 line 20-21, call routed to another resource based on routing rules).

Regarding **Claim 19**, McDonough teaches wherein: the primary service attendant can accept or decline to service an event using the two-way message receiver (Figure 3 #342, employee workstation where employee can decline routing of service request from #370 CTI), and wherein: in response to the primary service attendant accepting to service an event, the decisioning system establishes the primary

service attendant as being unavailable to service another event until the primary service provider completes service of the accepted event (column 8 line 13-15, if server indicates resource is not available to service event, then overflow management occurs).

Regarding **Claim 20**, McDonough discloses wherein the decisioning system monitors the time taken to service each event (Figure 8 #826 performance feedback), and responsive to time taken to service an event exceeding a threshold amount (column 7 line 57, if customer hangs up with waiting on hold) , the decisioning system selects an employee to notify of the incomplete service (column 7 line 55-56, CTI system captures information; Figure 3 #342, message transmitted back to workstation), and instructs the messaging system to transmit a message to the selected employee (column 7 line 56, information captured about abandoned calls is transmitted to employee; column 7 line 59-60, employees can call customers back and offer to be of service).

Regarding **Claim 21**, McDonough discloses. a customer database (Figure 7, DBMS, #706 customer, column 4 line 4 customer information database), communicatively coupled to the decisioning system (Figure 7 #702 Context Manager) and containing customer records indicating for each customer a measure of the customer's value and the customer's identification number (Figure 7 #706 customer record), the decisioning system receiving from a service location a customer identification number and querying the customer database with the received customer identification number to obtain the measure of the customer's value (column 7 line 25,

customer is profile identified by VRU; column 12 line 14-16, service levels provided are based on customers relationship), the decisioning system scheduling the event for service according to the obtained customer value (column 12 line 36-38, customer segmentation to allocate resources to deliver desired customer experience, based on profitability of customers).

**Claims 23, 24, 29-32, 34-36, 39-43, 45-47, 52, 53, 55-61, 66, 68-71 and 75**

recite limitations already addressed by the rejection of **Claims 1, 2, 7-10, 12-14 and 17-21** above, therefore the same rejection applies.

Regarding **Claim 54**, McDonough discloses wherein the message from the first service attendant is transmitted from a communication device fixed at the service location (Figure 3 #354 web server is fixed).

6. **Claims 3-6, 11, 22, 25-28, 33, 44, 48-51, 62-65, 67, 72 and 73** are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonough US Patent 6,070,142 in view of Acres US Patent 6,257,981.

Regarding **Claims 3-6**, McDonough teaches segmenting customer value based on profitability, that is, more profitable customers are valued more highly than less profitable customers (column 12 line 38-41). McDonough does not teach valuing

customers specifically based on theoretical win profile, a room rate of a room occupied by a customer, a room type of a room occupied by the customer, a number of persons in a party associated with a customer. Acres teaches basing customer value on the customer's theoretical win profile (column 29 line 21, theoretical wins calculated exactly per customer), as per **Claim 3**, and a number of persons in a party associated with the customer (column 20 line 36-38, buses and groups can be measured as to their profitability due to individual player tracking of each group), as per **Claim 6**. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of McDonough to include valuing a customer based on theoretical win profile and number of persons in a party associated with the customer, as taught by Acres, because it would improve casino profitability by enabling casinos to better identify and exploit the drivers of their profitability. The examiner takes official notice that it is common for casinos to incorporate hotels into their gaming complex. It would then be obvious for casinos to base customer value on a customer's room rate, as per **Claim 4**, and room type, as per **Claim 5**, because a customer would be more profitable to the casino if they were guests in a more expensive room or in a more expensive type of room. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the collective teachings of McDonough and Acres, as taught above, with valuing customers based on their room rate, as per **Claim 4**, and room type, as per **Claim 5**, because it would better help the casinos target customers for bonuses who were (column 3 line 26) valued and thereby improve casino profitability by encouraging

those customers for more gaming play (column 7 line 3-4, promotional campaigns target individual customers based on their gaming transactions).

Regarding **Claim 11**, McDonough teaches segmenting service based on customer value (column 12 line 36-38) and providing service to customers that is fast (column 13 line 51, fast and easy manner). McDonough does not teach wherein the rules include: at least one rule for scheduling events according to a combination of an age of the event and a value of the customer. Acres teaches wherein the rules include: at least one rule for scheduling events according to a combination of an age of the event (column 26 line 5-7, minimum activity level by player in order to be awarded a bonus jackpot; column 28 line 61-63, time and duration of play to used in determining bonusing) and a value of the customer (column 28 line 67, bonusing provided to certain individual players based on their playing profile). Acres teaches its player tracking system allows the casino to modify and tailor their gaming to match players tastes and demands (column 29 line 18-19). Acres teaches its player tracking system helps improve profitability (column 3 line 43, measuring profitability; column 7 line 3-4, allows promotions to be run which encourage more gaming play by customers). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of McDonough to include scheduling an event according to the age of an event and value of the customer, as taught by Acres, because it would improve casino profitability by better scheduling events in the form of promotions or bonuses to valued customers in order to increase their play time.

Regarding **Claim 22**, McDonough teaches a database containing customer identification information including addresses and unique account numbers. McDonough does not teach wherein each service location includes a customer identification card reader, for reading a customer identification number from a customer identification card. Acres teaches wherein each service location includes a customer identification card reader (column 12 line 1, section titled "card reader"; Figure 2 #100, card reader), for reading a customer identification number from a customer identification card (column 13, line 65-66, unique player identification number). Acres teaches that having a card reader improves the casino's ability to track customer play and tailor promotions and targeted mailing campaigns for the customer (column 20 line 26-39, player tracking helps casino use special database to target high value customers for future trips). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of McDonough to include reading a customer ID number from each service location using a card reader, as taught by Acres, because it would help the casino better track individual player activity to develop targeted mailing campaigns and improve casino profitability.

**Claims 25-28, 33, 44, 48-51, 62-65, 67, 72 and 73** recite limitations already addressed by the rejection of **Claims 3-6, 11, 22**, therefore the same rejection applies.



7. **Claims 15, 16, 37, 38 and 74** are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonough US Patent 6,070,142 in view of Boushy US Patent 6,003,013.

Regarding **Claim 15**, McDonough teaches:

a system for valuing customers based on their profitability to a business (column 12 line 36-39).

McDonough does not teach:

**wherein the service locations are gaming machines, and the communication devices are interface boards coupled to the gaming machines, which communicate game events to a gaming machine management system.**

Boushy teaches:

**wherein the service locations are gaming machines** (column 6 line 33-34, invention applies to all gaming machines & tables; Figure 14 #130 slot machine), **and the communication devices are interface boards coupled to the gaming machines** (column 5 line 50-51, all gaming activity routed to computer; Figure 14 #708 Game Monitoring Unit), which communicate game events to a gaming machine management system (Figure 14 #262, connected to slot monitoring system).

Boushy teaches his system provides an integrated way to recognize customer value in terms of the customer's worth to the casino.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the customer valuation system which deploys service resources to handle highest value customers first, as taught by McDonough, to include service locations that are gaming machines where interface boards at those gaming machines communicate game events to a gaming machine management system, as taught by Boushy, for the purpose of increasing profitability by targeting service to those customers providing the highest profitability to the casino.

Regarding **Claim 16**, McDonough teaches a system for valuing customers based on their profitability to a business (column 12 line 36-39).

McDonough does not teach:

**wherein the gaming machines are slot machines, and the interface boards communicate slot events to the slot management system.**

Boushy teaches

**wherein the gaming machines are slot machines**

(Figure 14 #130 slot machine)

**and the communication devices are interface boards that communicate slot events to the gaming machine management system**

Figure 14 #708 Game Monitoring Unit (i.e. interface board) communicates slot events to the SMS (Slot Monitoring System); Figure 14 #262, connected to slot monitoring system (i.e. gaming machine management system).

Boushy teaches his system provides an integrated way to recognize customer value in terms of the customer's worth to the casino.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the customer valuation system which deploys service resources to handle highest value customers first, as taught by McDonough, to include service locations that are slot machines where interface boards at those slot machines communicate game events to a slot machine management system, as taught by Boushy, for the purpose of increasing profitability by targeting service to those customers providing the highest profitability to the casino.

**Claims 37, 38 and 74** recite limitations already addressed by the rejection of **Claims 15 and 16**, therefore the same rejection applies.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is (571) 272-6881. The examiner can normally be reached on Monday-Friday, 8:00AM - 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth V Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS  
6-2-2009  
/Jonathan G. Sterrett/  
Primary Examiner, Art Unit 3623

